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Washington, DC 20037

March 20, 1995

Secretary of the Commission  
Rulemaking No. 8577  
Federal Communications Commission  
1919 M Street, NW  
Washington, D.C. 20554

Attention: William Caton

RECEIVED

MAR 23 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

DOCKET FILE COPY-ORIGINAL

Dear Mr. Caton:

On March 1, 1995 I sent by facimile transmission my comment relating to Rule Making 8577. It is my understanding that individuals who sent their comments by mail have received responses that I did not. Also, it appears that all comments sent by facimile transmission have not been considered.

In addition, comments filed on February 13, 1995 by the Federation of Citizens Associations of the District of Columbia; on March 4, 1995 Dorothy Miller, ANC Commissioner, and March 5, 1995 Consumer Utility Board were not considered.

I have been informed that some individuals received reply comments from NYNEX, McCAW and New Par.

I have not received any comments what so ever.

Therefore, I am concerned that my comments were not considered, even though they were timely filed. Also, the comments filled on February 13, March 4 and 5, 1995 were not considered, although timely filed.

Please review your records to insure that the comments are properly considered.

For your convience I am attaching copies of all the comments.

I thank you for your consideration.

Sincerely yours,

*Marija Hughes*  
Marija Hughes

Enc.

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HUGHES PRESS  
2400 VIRGINIA AVENUE, NW  
BOX C501  
WASHINGTON, DC 20037

3/1/1995

Secretary of the Commission  
Rulemaking No. 8577  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Attention: William Caton

Dear Secretary:

We are writing this letter in strong opposition to Cellular Telecommunications Industry Association petition to FCC to override state and local regulations dealing with antennas. The rule making was published on January 18, 1995.

The legal test for preemption cannot be met because there is no inherent conflict if the states set reasonable regulations to protect public safety and welfare as allowed by the 10th Amendment by the State Constitution.

State regulation in this case does not prevent building of antennas, but merely seeks to regulate the frequencies transmitted, and location of the antennas, to protect the health, safety and welfare of its citizens.

Eliminating state and local regulations would impair the health, safety and welfare of citizens exposed to radiation poisoning. No Congressional action has been undertaken to preempt the state regulation in this important health, and safety are. Therefore, the FCC has no grounds for challenging a state law or regulation without a pronouncement legislation from Congress.


It is inappropriate for the FCC to substitute its judgement on policies regarding antenna construction when Congress has chosen to remain silent on this matter and to allow reasonable regulation of this construction by states and localities.

There is no justification for the FCC to conduct rule making and threaten our harmonious, and constitutional, system of reasonable zoning regulation.

We respectfully request that the FCC close this document on the basis of that it is a matter of state law and policy. It is inappropriate for the FCC to eliminate carefully-crafted state and local regulations of this sort when no rational, federal policy addresses this matter.

Thank you for your careful consideration and attention for those comments.

Sincerely yours,

  
Marija Hughes  
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***Federation of Citizens Associations  
of the District of Columbia***

ORGANIZED MARCH 1, 1910    INCORPORATED JUNE 1, 1940

February 13, 1995

**SECRETARY OF THE COMMISSION  
RULEMAKING NO. 8577  
FEDERAL COMMUNICATIONS COMMISSION  
1919 M STREET, N.W.  
WASHINGTON, D.C. 20554**

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**NANCY F. WRIGHT**  
*Secretary*

Dear Commission Secretary:

At its February 9, 1995 Assembly meeting, the Federation of Citizens Associations of the District of Columbia by resolution instructed me to communicate its views on proposed Rulemaking No. 8577 to the Federal Communications Commission (FCC).

In substance, the Federation raises the question of prudence for the FCC to adopt a preemption rule at this juncture when the Congress is reviewing the relations between Federal and State and local governments. I cite, as obvious examples, the issue of unfunded mandates and proposed changes in the Crime Bill giving local authorities more flexibility and discretion in using federal funds.

The Federation, consisting of forty member associations throughout the District of Columbia, has a long-standing interest in telecommunications matters. Located in Washington, D.C., it is currently deeply involved in three matters which occasioned the introduction and passage of this resolution on Rulemaking No. 8577.

The first concerns the large numbers of high-powered transmitters, including Federal (White House, State Department, CIA, NSA, etc.), foreign embassies, and commercial telephone, television, radio and other facilities, many operating in Washington with highly varying power emissions and none monitored regularly.

The second concerns the inefficient interrelationships of the various governmental bureaucratic groups seeking to regulate, or to exempt, many of these facilities from normal standards. For example under the Home Rule Act governing the District of Columbia (D.C.) the D. C. Council exempted the entire Central Employment Area from any

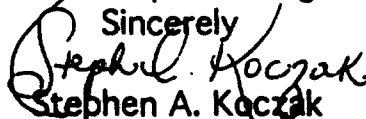
and every environmental impact study, including radioactive transmissions. This exemption appeared to be unknown to the National Capital Planning Commission (NCPC) which therefore had failed to budget any funds to undertake a study of the consequent environmental hazards. The NCPC belatedly hired some staff to consider this issue only after our Federation, just within the last year, complained to the NCPC for neglecting its duties to protect Federal officials, including the President, his Cabinet, Members of Congress and the civilian and military bureaucracy housed here, from exposure to possible, if intermittent, excessive radiation.

The third is the expected imminent collapse of any regular governmental operations in the District. The Mayor is already threatening to withdraw normal police support in Ward 2 (in which the White House and major Federal departments are located ) and Ward 6 (which includes the Capitol and the Congressional offices of the United States). The D.C. deficit exceeds \$750,000,000, its billion dollar bond debt has been reduced to a rating just above "junk bonds" and it expects to be out of cash by mid-May of this year.

Our delegates have read carefully the proposals by the Cellular Telecommunication Industry Association and the Electromagnetic Energy Association. We appreciate the concerns of these groups, especially since they have bid such high prices at the auctions conducted by the FCC. However, they were aware of the factual situation confronting them during all this time and nothing has happened in the interval which requires the FCC, now immediately and without awaiting Congressional study, to rush to preempt possible or hypothetical acts by State or local governments.

We fear that a precipitant action taken by the FCC will produce only more turmoil both in the courts and in the halls of Congress and the state legislatures. For this reason, we urge the FCC to delay taking any action until after the Congressional "One Hundred Days" have elapsed. By our calculations, that should be sometime in mid-May, 1995. We therefore petition that the FCC postpone its hearings until July 1, 1995. and we seek a continuance until that date so as to provide a more technical and more precise legal analysis to the FCC.

Sincerely

  
Stephen A. Koczak

cc: Senators Bob Packwood and Ernest F. Hollings  
Representatives Jack Fields and Edward J. Markey

**Dorothy Miller**  
**Commisioner ANC 2A05**

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2440 Virginia Ave., NW, Suite D 206  
Washington, DC 20037

Tel. (202) 331-0191

March 4, 1995

Secretary of the Commission  
Rule making No. 8577  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Mr. Secretary:

Attached is a copy of an article that appeared in the Wall Street Journal, the  
implication of the action that is planned by the FCC truly leaves me gasping. I say, hooray  
for Congress. The sooner they put a gag on such irresponsible rule making the better.

Sincerely,



Dorothy Miller,  
Commissioner, ANC2A05

Attachment

FRIDAY, DECEMBER 23, 1994

## Wireless Industry Asks U.S. to Force Approval Of New Tower Sites

By a WALL STREET JOURNAL Staff Reporter

WASHINGTON — The federal government, which is auctioning licenses for wireless-communication systems, is being asked to force local officials to approve towers to deliver the new services.

A trade group for the wireless industry asked the Federal Communications Commission to pre-empt state and local regulations that could prevent the towers from being built. The group, the Cellular Telecommunications Industry Association, cited recent legislation that prohibits state and local governments from regulating entry into mobile-telecommunications services.

The so-called personal communications services are variations on cellular-telephone service. So far, in 13 days of auctions, the government has received bids totaling \$1.66 billion for licenses to establish the new systems. FCC Chairman Reed Hundt yesterday said that represents "the highest auction of public property in world history."

PCS, by the industry's own estimates, could require as many as 100,000 tower sites by 2000, compared with 15,000 sites for cellular phone service.

Still, Gina Keeney, who heads the FCC's wireless division, said the agency may need new legislation to override local authorities. "It would give us a stronger case," she said.

CONSUMER UTILITY BOARD  
3393 Blaine Street, N.E., #3D  
Washington, D.C. 20019

Telephone (202) 399-1717

March 5, 1995

Secretary of the Commission  
Rulemaking No. 8577  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Mr. Secretary:

We are writing this letter because Consumer Utility Board is in strong opposition to Cellular Telecommunications Industry Association petition to FCC to override state and local regulation dealing with antennas (Note Wall Street Journal article attached). The rule making has been published on January 18, 1995 under the number 8577.

The legal test for preemption cannot be met because there is no inherent conflict if the states set reasonable regulations to protect public safety and welfare as allowed by the 10th Amendment by the State Constitution.

State regulation in this case does not prevent building of antennas, but merely seeks to regulate the frequencies transmitted, and location of the antennas, to protect the health, safety and welfare of its citizens.

Eliminating state and local regulations would impair the health, safety, and welfare of citizens exposed to radiation poisoning. No Congressional action has been undertaken to preempt the state regulation in this important health, and safety area. Therefore, the FCC has no legal or legislative basis to challenge state regulatory in this matter. As a federal agency FCC has no grounds for challenging a state law or regulation without a pronouncement legislation from Congress.

It is inappropriate for the FCC to substitute its judgement on policies regarding antenna construction when Congress has chosen to remain silent on this matter and to allow reasonable regulation of this construction by states and localities.

There is no justification for the FCC to conduct rule making and threaten our harmonious and constitutional system of reasonable zoning regulation.



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Thank you for your careful consideration and attention for those comments.

Sincerely,



George E. Gurley  
Chairman

Attachment

cc: CUB files

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